




State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/05/2013 (Per: PJK)

Appendix B ... segment II

Appendix A  The drafting file for LRB 13-0016 (used to create 13-3081)
(Representative Kleefisch)

Appendix B  The drafting file for LRB 11-3501 (used to create 13-0016)
(Representative Kleefisch)

has been transferred to the drafting file for

2013 LRB-3081

(Representative Kleefisch)



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment II

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2011 LRB-3501/1 (For: Rep. Kleefisch)

has been transferred to the drafting file for

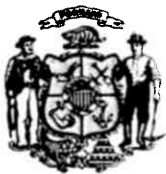
2013 LRB-0016 (For: Rep. Kleefisch)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 09/04/2012 (Per: PJK)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3501/P
PJK:sac&med:re

rm is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

stays

D-into
SOON
(w/1-31)

Feb 6

regenerate ↓

1 **AN ACT to renumber and amend** 767.511 (1j) and 767.511 (2); **to amend**
2 767.215 (1) (b), 767.215 (2m) (a) 2., 767.225 (1n) (b) 1., 767.511 (1) (a), 767.511
3 (1j) (title), 767.511 (1m) (intro.), 767.511 (1n), 767.511 (2) (title), 767.55 (2) (c),
4 767.553 (1) (a), 767.553 (1) (b), 767.59 (1f) (b) 4., 767.59 (2) (a), 767.80 (7),
5 767.813 (6) and 767.85 (2); and **to create** 767.511 (1j) (a), 767.511 (1j) (b) 1.,
6 767.511 (1j) (b) 2., 767.511 (1j) (b) 3., 767.511 (1j) (b) 4., 767.511 (1j) (c), 767.511
7 (2) (b) and 767.59 (1f) (b) 5. of the statutes; **relating to:** calculating child
8 support and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 767.215 (1) (b) of the statutes is amended to read:

1 767.215 (1) (b) The clerk of court shall provide without charge, to each person
2 filing a petition requesting child support, a document setting forth the percentage
3 standard ~~established by the department~~ under s. ~~49.22 (9)~~ 767.511 (1j) (b) and listing
4 the factors that a court may consider under s. 767.511 (1m).

5 **SECTION 2.** 767.215 (2m) (a) 2. of the statutes is amended to read:

6 767.215 (2m) (a) 2. Shall be accompanied by a document, provided without
7 charge by the clerk of court, setting forth the percentage standard ~~established by the~~
8 ~~department~~ under s. ~~49.22 (9)~~ 767.511 (1j) (b) and listing the factors that a court may
9 consider under s. 767.511 (1m).

10 **SECTION 3.** 767.225 (1n) (b) 1. of the statutes is amended to read:

11 767.225 (1n) (b) 1. If the court makes a temporary child support order that
12 deviates from the amount of support that would be required by using the percentage
13 standard ~~established by the department~~ under s. ~~49.22 (9)~~ 767.511 (1j) (b), the court
14 shall comply with the requirements of s. 767.511 (1n).

15 **SECTION 4.** 767.511 (1) (a) of the statutes is amended to read:

16 767.511 (1) (a) Order ~~either or both parents~~ a parent who has physical
17 placement with his or her child for less than 75 percent of the time to pay an amount
18 reasonable or necessary to fulfill a duty to support ~~a~~ the child. The support amount
19 must be expressed as a fixed sum unless the parties have stipulated to expressing
20 the amount as a percentage of the payer's income and the requirements under s.
21 767.34 (2) (am) 1. to 3. are satisfied.

22 **SECTION 5.** 767.511 (1j) (title) of the statutes is amended to read:

23 767.511 (1j) (title) PERCENTAGE CALCULATION: PERCENTAGE STANDARD GENERALLY
24 REQUIRED.

Amended 2-21

1 SECTION 6. 767.511 (1j) of the statutes is renumbered 767.511 (1j) (b) (intro.)
2 and amended to read:

3 767.511 (1j) (b) (intro.) Except as provided in sub. (1m), the court shall
4 determine the child support payments by using the percentage standard established
5 ~~by the department under s. 49.22 (9). obligation of a parent~~ ordered to pay child
6 support under sub. (1) (a) in the following manner:

7 SECTION 7. 767.511 (1j) (a) of the statutes is created to read:

8 767.511 (1j) (a) In this subsection:

9 1. "Gross income" has the meaning given in s. DCF 150.02 (13) (a), Wis. Adm.
10 Code.

11 2. "Net income" means gross income less federal and state ^{income} tax required by law
12 to be withheld or to be paid by a self-employed individual.

13 SECTION 8. 767.511 (1j) (b) 1. of the statutes is created to read:

14 767.511 (1j) (b) 1. Subject to subd. 3., if the parent's total monthly net income
15 is \$7,000 or less, his or her monthly child support obligation equals the amount that
16 is the following percentage of his or her total monthly net income:

- 17 a. For one child, 17 percent.
18 b. For 2 children, 25 percent.
19 c. For 3 children, 29 percent.
20 d. For 4 children, 31 percent.
21 e. For more than 4 children, 34 percent.

22 SECTION 9. 767.511 (1j) (b) 2. of the statutes is created to read:

23 767.511 (1j) (b) 2. Subject to subd. 3., if the parent's total monthly net income
24 exceeds \$7,000, his or her monthly child support obligation equals the amount that
25 is the following percentage of his or her total monthly net income:

- 1 a. For one child, 14 percent.
- 2 b. For 2 children, 20 percent.
- 3 c. For 3 children, 23 percent.
- 4 d. For 4 children, 25 percent.
- 5 e. For more than 4 children, 27 percent.

6 **SECTION 10.** 767.511 (1j) (b) 3.^x of the statutes is created to read:

7 767.511 (1j) (b) 3. When the court calculates a parent's child support obligation,
8 unless the parties agree otherwise in writing or orally in open court, the court shall
9 reduce the amount determined under subd. 1. or 2. for the parent by the amount per
10 month that the parent currently pays *or is ordered to pay* for any of the following costs:

- 11 a. Health care coverage for the child.
- 12 b. The child's health care expenses that are not covered by insurance.
- 13 c. Child care expenses.

****NOTE: The comment to my question about this provision indicated that only what a parent is currently paying should be considered. Therefore, I did not include what a parent might be ordered to pay in health insurance premiums under s. 767.513 in this calculation. It is possible that a court might require an arrangement that is different from the current arrangement or even a different parent to cover the child on his or her insurance under s. 767.513, in which case the child support obligation, if it takes into account only what is currently paid, will not be calculated correctly. Do you want to address s. 767.513 for purposes of the reduction under this subdivision?

14 **SECTION 11.** 767.511 (1j) (b) 4.^x of the statutes is created to read:

15 767.511 (1j) (b) 4. If each parent has physical placement with a child for more
16 than 25 percent of the time, the child support obligation of each parent shall be
17 calculated as provided in subds. 1. to 3. and multiplied by the percentage of time that
18 the other parent has physical placement with the child. The product of a parent's
19 child support obligation multiplied by the percentage of time that the other parent
20 has physical placement with the child is that parent's comparative child support
21 obligation amount. The parent with the larger comparative child support obligation

sub.
Subject to sub. (2)(b)

2011 - 2012 Legislature

- 5 -

LRB-3501/P2
PJK:sac&med:rs
SECTION 11

Rules for income
available for support.

for purposes of sub. (1m)(bc)

1 amount shall pay to the other parent that amount reduced by the payee parent's
2 comparative child support obligation amount.

3 SECTION 12. 767.511 (1j)(c) of the statutes is created to read:

4 767.511 (1j)(c) The department shall promulgate rules related to how income
5 actually available to a parent for the payment of child support shall be computed.

6 If a parent is self-employed, there shall be a rebuttable presumption that a cash flow
7 statement provided by a certified public accountant on behalf of the parent establishes the

8 parent's income actually available for the payment of child support for purposes of

9 this subsection. sub. (1m)(bc)

****NOTE: I have modified this provision in the way suggested, by deleting the second sentence and substituting the suggested language for "net income." The problem with this provision, however, is that it does not explicitly relate to anything in the way that child support is established. There is nothing that tells a court what to do with this information. Do you want the amount of income actually available for the payment of child support to be a factor for modifying support under s. 767.511 (1m)? Do you want the court to consider it every time a child support obligation is determined so that it would be part of the calculation under proposed s. 767.511 (1j) (b)? Do you want to change the definition of "net income" to be "the amount of gross income actually available to the parent for the payment of child support, less federal and state taxes"? All of these are options for how this information can be used.

10 SECTION 13. 767.511 (1m) (intro.) of the statutes is amended to read:

11 767.511 (1m) DEVIATION FROM STANDARD; FACTORS. (intro.) Upon request by a
12 party, the court may modify the amount of child support payments determined under
13 sub. (1j) if, after considering the following factors, the court finds by the greater
14 weight of the credible evidence that use of the that percentage standard is unfair to
15 the child or to any of the parties:

16 SECTION 14. 767.511 (1n) of the statutes is amended to read:

17 767.511 (1n) DEVIATION FROM STANDARD; RECORD. If the court finds under sub.
18 (1m) that use of the percentage standard under sub. (1j) (b) is unfair to the child or
19 the requesting party, the court shall state in writing or on the record the amount of

1 support that would be required by using the percentage standard, the amount by
2 which the court's order deviates from that amount, its reasons for finding that use
3 of the percentage standard is unfair to the child or the party, its reasons for the
4 amount of the modification, and the basis for the modification.

5 **SECTION 15.** 767.511 (2) (title) of the statutes is amended to read:

6 767.511 (2) (title) SEPARATE ACCOUNT FUND, OR TRUST.

7 **SECTION 16.** 767.511 (2) of the statutes is renumbered 767.511 (2) (a) and
8 amended to read:

9 767.511 (2) (a) The Except as provided in par. (b), the court may protect and
10 promote the best interests of the minor children by setting aside a portion of the child
11 support ~~which~~ that either party is ordered to pay in a separate fund or trust for the
12 support, education, and welfare of such children.

13 **SECTION 17.** 767.511 (2) (b) of the statutes is created to read:

14 767.511 (2) (b) If the court determines that the amount of child support
15 calculated in the manner provided in this section exceeds the amount reasonably
16 necessary to support the child's current needs, the court shall order that the excess
17 amount be deposited in an account requiring the signatures of both parents for
18 withdrawal, to be used for any extraordinary needs of the child on which the parents
19 agree. Any funds remaining in the account when the child support obligation ends
20 shall be used for postsecondary education expenses for the child. Any funds
21 remaining in the account after 10 years from the date on which the child support
22 obligation ends shall be returned to the parents in proportion to the comparative
23 child support obligation of each under sub. (1j) (b) 4. or, if only one parent had a child
24 support obligation, to that parent, or shall be distributed in another manner
25 specified by the court.

****NOTE: Rather than 10 years from when the child graduates from high school, I required the money to be returned 10 years after the child support obligation ends, in case the child does not graduate from high school.

****NOTE: I added that the court could specify another manner of distribution to account for the possibility that the court might modify child support under sub. (1m).

1 **SECTION 18.** 767.55 (2) (c) of the statutes is amended to read:

2 767.55 (2) (c) If the court enters an order under par. (am), it shall order the
3 parent to pay child support equal to the amount determined by applying the
4 percentage standard established under s. 49.22 (9) 767.511 (1j) (b) or equal to the
5 amount of child support that the parent was ordered to pay in the most recent
6 determination of support under this chapter. The child support obligation ordered
7 under this paragraph continues until the parent makes timely payment in full for
8 3 consecutive months or until the person participates in the program under s. 49.36
9 for 16 weeks, whichever occurs first. The court shall provide in its order that the
10 parent shall make child support payments calculated under s. 767.511 (1j) or (1m)
11 after the obligation to make payments ordered under this paragraph ceases.

12 **SECTION 19.** 767.553 (1) (a) of the statutes is amended to read:

13 767.553 (1) (a) An order for child or family support under this chapter may
14 provide for an annual adjustment in the amount to be paid based on a change in the
15 payer's income if the amount of child or family support is expressed in the order as
16 a fixed sum and based on the percentage standard established by the department
17 under s. 49.22 (9) 767.511 (1j) (b). No adjustment may be made under this section
18 unless the order provides for the adjustment.

19 **SECTION 20.** 767.553 (1) (b) of the statutes is amended to read:

20 767.553 (1) (b) An adjustment under this section may not be made more than
21 once in a year and shall be determined on the basis of the percentage standard
22 established by the department under s. 49.22 (9) 767.511 (1j) (b).

1 **SECTION 21.** 767.59 (1f) (b) 4. of the statutes is amended to read:

2 767.59 (1f) (b) 4. ~~A If the action is one to revise a judgment or order with respect~~
3 ~~to child support ordered under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183~~
4 ~~(4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2),~~ a difference between the
5 amount of child support ordered by the court to be paid by the payer and the amount
6 that the payer would have been required to pay based on the percentage standard
7 established by the department under s. 49.22 (9) if the court did not use ~~the~~ that
8 percentage standard in determining the child support payments and did not provide
9 the information required under s. 46.10 (14) (d), 49.345 (14) (d), 301.12 (14) (d), or
10 767.511 (1n), whichever is appropriate.

11 **SECTION 22.** 767.59 (1f) (b) 5. ^x of the statutes is created to read:

12 767.59 (1f) (b) 5. If the action is one to revise a judgment or order with respect
13 to child support or family support ordered under this [✓] chapter or s. 948.22 (7), a
14 difference between the amount of child support ordered by the court to be paid by the
15 payer and the amount that the payer would have been required to pay based on the
16 percentage standard under s. 767.511 (1j) (b) if the court did not use that percentage
17 standard in determining the child support payments and did not provide the
18 information required under s. 767.511 (1n).[✓]

19 **SECTION 23.** 767.59 (2) (a) [✓] of the statutes is amended to read:

20 767.59 (2) (a) Except as provided in par. (b) or (c), if the court revises a judgment
21 or order with respect to child support payments, it shall do so by using the percentage
22 standard ~~established by the department under s. 49.22 (9)~~ 767.511 (1j) (b).[✓]

23 **SECTION 24.** 767.80 (7) ^x of the statutes is amended to read:

24 767.80 (7) CLERK TO PROVIDE DOCUMENT. The clerk of court shall provide without
25 charge to each person bringing an action under this section, except to the state under

1 sub. (1) (g) or (6m), a document setting forth the percentage standard established by
2 the department under s. ~~49.22 (9)~~ 767.511 (1j) (b) and listing the factors that a court
3 may consider under s. 767.511 (1m).

4 ^x
SECTION 25. 767.813 (6) of the statutes is amended to read:

5 767.813 (6) DOCUMENT. The summons served on the respondent shall be
6 accompanied by a document, provided without charge by the clerk of court, setting
7 forth the percentage standard established by the department under s. ~~49.22 (9)~~
8 767.511 (1j) (b) and listing the factors that a court may consider under s. 767.511
9 (1m).

10 ^x
SECTION 26. 767.85 (2) of the statutes is amended to read:

11 767.85 (2) CONSIDERATIONS. Before making any temporary order under sub. (1),
12 the court shall consider those factors that the court is required to consider when
13 granting a final judgment on the same subject matter. If the court makes a
14 temporary child support order that deviates from the amount of support that would
15 be required by using the percentage standard established by the department under
16 s. ~~49.22 (9)~~ 767.511 (1j) (b), the court shall comply with the requirements of s. 767.511
17 (1n).

18 ^{auto ref 1}
SECTION 27. Nonstatutory provisions.

19 (1) SUBSTANTIAL CHANGE IN CIRCUMSTANCES. Notwithstanding section 767.59 (1f)
20 (b) 5. of the statutes, as created by this act, the renumbering and amendment of
21 section 767.511 (1j) of the statutes by this act and the creation of section 767.511 (1j)
22 (b) 1. to 4. ^{and (1m) (bc)} of the statutes by this act constitute a substantial change in circumstances
23 on which may be based a revision under section 767.59 of the statutes of a judgment
24 or order with respect to child or family support.

(2) AGREEMENTS VOID. Any agreement entered into before the effective date of this subsection by parties to an action affecting the family, as defined in section 767.001 (1) of the statutes, that relates to child support and that has not been approved by a court before the effective date of this subsection is void unless the parties reaffirm the agreement in writing or in open court on or after the effective date of this subsection.

Insert 10-6
auto ref 3
SECTION 28. Initial applicability. *(CS)* *General.*

(1) Except as provided in subsection (2), this act first applies to child or family support orders, including temporary orders and orders revising judgments or orders previously granted, *(CS)* that are granted on the effective date of this subsection.

auto ref 4
Documents provided by clerk. H (a) auto ref 55
(2) The treatment of sections 767.215 (1) (b) and (2m) (a) 2., 767.80 (7), and 767.813 (6) of the statutes first applies to actions or proceedings, including actions or proceedings to modify a judgment or order previously granted, that are commenced on the effective date of this *subsections* *paragraph*

(END)

Insert 10-14

D - note

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

P3
LRB-3501/ins
PJK:.....

INSERT A

184

generally

Under current law, in divorces, paternity actions, and other actions affecting the family in which there are minor children the court is required to order either or both parents to pay an amount that is reasonable or necessary to fulfill a duty to support a child. The court must determine child support payments by using the percentage standard set out in the Wisconsin Administrative Code (code) and established by the Department of Children and Families (DCF). The percentage standard is a percentage of the child support payer's monthly income available for support. The percentage that the child support payer must pay varies with the number of children to be supported. Under the percentage standard, a payer must pay 17 percent of his or her monthly income available for support for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, and 34 percent for five or more children. Generally, the parent who has physical placement with a child for less time is ordered to pay child support to the other parent on the basis of the percentage standard.

In addition to the percentage standard, the code provides special methods that the court may, but is not required to, use for calculating child support in special situations: serial-family parents; shared-placement payers; split-placement payers; low-income payers; and high-income payers. A serial-family parent is a parent who is already obligated to pay child support and who is later ordered to pay support for another child, from a later marriage or a paternity adjudication, for example. The amount of support that the person must pay under the later order may be calculated by first reducing the payer's monthly income available for support by the amount under the first child support order and then applying the percentage standard to that reduced income amount.

Shared-placement parents are parents who both have physical placement with a child for at least 25 percent of the time or 92 days a year and who are both ordered by the court to assume the child's basic support costs in proportion to the time that the parent has placement of the child. For shared-placement parents, child support may be determined by multiplying each parent's income by the percentage standard, multiplying each of those resulting amounts by 150 percent, and then multiplying the resulting amount determined for each parent by the other parent's proportion of physical placement. The parent with the higher resulting amount pays to the other parent the difference between the amounts or the amount that would be determined by applying the percentage standard to his or her income, whichever is lower.

Split-placement parents are parents who have two or more children and each has placement with at least one but not all of the children. Under the code, child support may be determined by multiplying each parent's income by the pro rata percentage standard that applies for the number of children placed with the other parent. (For example, if there are two children and each parent has physical placement with one child, the pro rata percentage standard is 12.5 percent, or one-half of the 25 percent that applies for two children under the percentage standard.) The parent who would be required to pay the higher amount pays the difference to the other parent.

↓

Ans A contd 2 of 4

For low-income payers and high-income payers, the court may determine child support by using a schedule of percentages that are different from the percentages in the percentage standard. Currently, a low-income payer is one with annual income available for support of \$16,200 or less. This amount, which is 150 percent of poverty, is adjusted based on federal poverty guidelines. The schedule of percentages is reduced for each income level in gradients of \$25 per monthly income amount. Currently, the percentages, depending on income level, range from 11.11 percent to 17 percent for one child and from 22.22 percent to 34 percent for five or more children. For high-income payers, child support may be determined by multiplying annual income available for support that is less than \$84,000 by the usual percentages of the percentage standard, income between \$84,000 and \$150,000 by a different schedule of percentages that are about 80 percent of the usual percentages, and income above \$150,000 by another schedule of percentages that are about 60 percent of the usual percentages. For example, for a payer with annual income available for support above \$150,000, child support for one child may be determined by multiplying the payer's monthly income under \$7,000 by 17 percent, multiplying the additional monthly income between \$7,000 and \$12,500 by 14 percent, multiplying the additional monthly income over \$12,500 by 10 percent, and adding together the amounts obtained.

The code provides that the court must determine a parent's monthly income that is available for child support by dividing by 12 the sum of the parent's gross annual income, or gross annual income modified for business expenses, the parent's annual imputed income based on earning capacity, and the parent's annual income imputed from assets. Under the code, the court may impute income to a payer if the court determines that the payer's income is less than his or her earning capacity or if the payer has unproductive assets or has diverted income into assets to avoid paying child support. For imputing income based on earning capacity, the court assesses the parent's education, training, previous work experience and income level, and the availability of work in or near the parent's community. Income imputation for unproductive assets involves multiplying the net value of the parent's assets by the current six-month treasury bill rate or another reasonable rate.

Under the statutes, a court is authorized, upon a party's request, to modify the amount of child support that would be ordered by using the percentage standard if the court finds that use of the percentage standard is unfair to the child or either of the parties. In making this finding, the court must consider a number of factors, such as the earning capacity of each parent, the desirability that the custodian remain in the home as a full-time parent, and extraordinary travel expenses incurred in exercising physical placement rights.

This bill sets out a child support percentage standard in the statutes for actions affecting the family and specifies how a court must determine child support, including for revisions of existing child support orders. Under the bill, the court must determine the support obligation of each parent who has physical placement with a child for less than 75 percent of the time and order one or both parents to pay an amount for the support of the child. To calculate a parent's child support obligation, the parent's net monthly income, which is the parent's gross monthly income,

↓

Enc A contd 3074

determined in the manner provided in the code, less federal and state income tax required by law to be withheld or to be paid by a self-employed individual, is multiplied by a specified percentage. If a parent's net monthly income is \$7,000 or less (which equals \$84,000 or less of net annual income), his or her total net monthly income is multiplied by the same percentages as the percentage standard under the code: 17 percent for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, and 34 percent for more than four children. However, if a parent's net monthly income exceeds \$7,000, his or her total net monthly income is multiplied by 14 percent for one child, 20 percent for two children, 23 percent for three children, 25 percent for four children, and 27 percent for more than four children.

Under current law, in addition to ordering child support for a child, the court is required to assign responsibility for payment of the child's health care expenses and may require a parent to initiate or continue health insurance coverage for the child. Under the bill, after determining a parent's monthly child support obligation, the court must deduct from that amount any amount the parent currently pays, or is ordered to pay, for the child's health care coverage, health care expenses not covered by insurance, and child care expenses. Then, if both parents have physical placement with a child for more than 25 percent of the time, each parent's child support obligation, thus determined, is multiplied by the percentage of time that the other parent has physical placement with the child to determine each parent's comparative child support obligation. Whichever parent has the larger comparative child support obligation pays the difference between the two to the other parent as child support.

Under the bill, a court is still authorized, upon a party's request, to modify the amount of child support that would be ordered by using the new percentage standard if the court finds that its use is unfair to the child or either of the parties after considering the factors under current law. The bill adds, as another factor for the court to consider, the amount of income actually available to a parent for the payment of child support. The bill directs DCF to promulgate rules on how to compute the amount of income actually available to a parent, and provides that, if a parent is self-employed, there is a rebuttable presumption that a cash flow statement from a certified public accountant on behalf of the parent establishes the parent's income that is actually available for support.

Current law provides that the court may require a portion of the amount that either party must pay in child support to be set aside in a separate fund or trust for the support, education, and welfare of the child. The bill does not change the ability of the court to set funds aside for the child. The bill adds, however, that if the court determines that the amount of child support calculated in the new manner exceeds the amount reasonably necessary to support the child's current needs, the court must order the excess to be deposited in an account that requires the signatures of both parents for withdrawal, to be used for any extraordinary needs of the child. When the child support obligation ends, any funds remaining must be used for postsecondary education expenses of the child. Any funds remaining after ten years



ins A contd 404

after the child support obligation ends must be returned to the parent or parents in proportion to their comparative child support obligations. *or distributed in*

Under current law, the court may revise the amount of child support under an existing order only if the court finds that there has been a substantial change in circumstances. The bill provides that the creation of the new percentage standard in the statutes and the other new requirements related to determining child support constitute a substantial change in circumstances on which a revision may be based. The bill also provides that any agreement related to child support that was entered into before the effective date of the bill that has not yet been approved by a court is void unless the parties reaffirm the agreement in writing or in open court on or after the effective date of the bill. Finally, the bill provides that the court may determine a parent's child support obligation in conformity with any provisions of the code that are not in conflict with the new percentage standard or other new requirements in the statutes.

another manner specified by the court

FE-SL

(END OF INSERT A)

INSERT 2-21

x

- 1 SECTION 1. 767.511 (1) (a) of the statutes is amended to read:
- 2 767.511 (1) (a) ~~Order~~ Determine the support obligation of each parent who has
- 3 physical placement with his or her child for less than 75 percent of the time and order
- 4 either or both parents to pay an amount reasonable or necessary to fulfill a duty to
- 5 support ~~a~~ the child. The support amount must be expressed as a fixed sum unless
- 6 the parties have stipulated to expressing the amount as a percentage of the payer's
- 7 income and the requirements under s. 767.34 (2) (am) 1. to 3. are satisfied.

History: 1971 c. 157; 1977 c. 29, 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.25; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 37, 355, 413; 1989 a. 31, 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7101, 7102, 9126 (19); 1995 a. 201, 279, 404; 1997 a. 27, 35, 191; 1999 a. 9, 32; 2001 a. 16, 61; 2005 a. 253, 342; 2005 a. 443 ss. 103, 105, 219; Stats. 2005 s. 767.511; 2009 a. 185; 2011 a. 32.

****NOTE: See how I have modified the wording of this provision. I think that the new wording is more accurate, since both parents will really not be paying each other child support in most cases.

(END OF INSERT 2-21)

INSERT 3-6

↓

ins 3-6

....NOTE: I have modified this provision, since the court will determine the support obligation even of a parent who is not actually ordered to pay support to the other parent. Okay?

(END OF INSERT 3-6)

INSERT 3-12

....NOTE: I added "income" before "tax." Okay? ✓

(END OF INSERT 3-12)

INSERT 5-2

....NOTE: I added "Subject to sub. (2) (b)," to the last sentence above, since the court may require some or all of the difference to be deposited in an account. Okay? ✓

1 **SECTION 2.** 767.511 (1j) (b) 5. of the statutes is created to read:
2 767.511 (1j) (b) 5. In addition to the calculations under subds. 1. to 4., the court
3 may determine a parent's child support obligation under this section in conformity
4 with any provisions of ch. DCF 150, Wis. Adm. Code, that are not in conflict with
5 subds. 1. to 4.

(END OF INSERT 5-2)

INSERT 5-15

6 **SECTION 3.** 767.511 (1m) (bc) of the statutes is created to read:
7 767.511 (1m) (bc) The amount of income actually available to a parent for the
8 payment of child support.

(END OF INSERT 5-15)

INSERT 6-5

....NOTE: I added "public" between "certified" and "accountant." Okay?

(END OF INSERT 6-5)

INSERT 7-1

↓

Ins 7-1

SECTION 4. 767.513 (2) of the statutes is amended to read:

767.513 (2) RESPONSIBILITY AND PAYMENT. In addition to ordering child support for a child under s. 767.511 (1), and subject to s. 767.511 (1j) (b) 3., the court shall specifically assign responsibility for and direct the manner of payment of the child's health care expenses. In assigning responsibility for a child's health care expenses, the court shall consider whether a child is covered under a parent's health insurance policy or plan at the time the court approves a stipulation for child support under s. 767.34, enters a judgment of annulment, divorce, or legal separation, or enters an order or a judgment in a paternity action or in an action under s. 767.001 (1) (f) or (j), 767.501, or 767.805 (3), the availability of health insurance to each parent through an employer or other organization, the extent of coverage available to a child, and the costs to the parent for the coverage of the child. A parent may be required to initiate or continue health care insurance coverage for a child under this section. If a parent is required to do so, he or she shall provide copies of necessary program or policy identification to the custodial parent and is liable for any health care costs for which he or she receives direct payment from an insurer. This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums that are in addition to and not inconsistent with this section.

History: 2005 a. 443 ss. 104, 220; 2007 a. 96.

(END OF INSERT 7-1)

INSERT 10-6

183

Autoref
blue

auto ref 2

20

(0) DOCUMENT PROVIDED BY CLERK SETTING FORTH PERCENTAGE STANDARD.

21

(a) Notwithstanding sections 767.215 (1) (b) and (2m) (a) 2., 767.511 (1m) (bc),

22

767.80 (7), and 767.813 (6) of the statutes, as affected by this act, and SECTION 28 (2)

(see p. 10) → auto ref 3 → auto ref 4 → continues next page →

(see p. 10)
auto ref 5

- 7 -

LRB-3501/P2ins
PJK:.....

Ins.
ens 10-6 cont'd 2003

1 (a) of this act, a clerk of court is not required to provide a document under section
2 767.215 (1) (b) or (2m) (a) 2., 767.80 (7), or 767.813 (6) of the statutes, as affected by
3 this act, that sets forth the percentage standard under section 767.511 (1j) (b) of the
4 statutes, as affected by this act, and lists the factors that a court may consider under
5 section 767.511 (1m) of the statutes, including section 767.511 (1m) (bc) of the
6 statutes, as created by this act, before the first day of the 3rd month beginning after
7 the effective date of this paragraph.

8 Autoref (b) Before the date specified in paragraph (a), a clerk of court shall continue to
9 Green provide a document under section 767.215 (1) (b) or (2m) (a) 2., 767.80 (7), or 767.813
10 (6) of the statutes, as affected by this act, that sets forth the percentage standard
11 established by the department of children and families under section 49.22 (9) of the
12 statutes and lists the factors that a court may consider under section 767.511 (1m)
13 (a), (b), and (bj) to (i) of the statutes.

14 Autoref red (c) As soon as practicable after the date specified in paragraph (a), a clerk of
15 court shall provide a document that sets forth the percentage standard under section
16 767.511 (1j) (b) of the statutes, as affected by this act, and lists the factors that a court
17 may consider under section 767.511 (1m) of the statutes, including section 767.511
18 (1m) (bc) of the statutes, as created by this act, to each person to whom the clerk
19 provided, after the effective date of this paragraph, a document described in
20 paragraph (b). AR Green

21 AR Blue (d) Each person who receives a document under paragraph (c) from a clerk of
22 court and who served a summons under section 767.215 (2m) of the statutes, as
23 affected by this act, or under section 767.813 (6) of the statutes, as affected by this
24 act, after the effective date of this paragraph accompanied by a document described
25 in paragraph (b) shall provide the document received from the clerk under paragraph

✓ continues next page

Ins 10-6 cont'd 383

1 (c) to the party on whom the summons accompanied by the document described in
2 paragraph (b) was served.

(END OF INSERT 10-6)

INSERT 10-14

3 6 ← 9 The treatment of SECTION X (Y) of this act first applies to actions or
4 proceedings, including actions or proceedings to modify a judgment or order
5 previously granted, that are commenced on the effective date of this paragraph.

(END OF INSERT 10-14)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

- date -

LRB-3501/~~PJ~~^{P3}dn
PJK:.....

sac & med

I have added an analysis; however, I have kept the draft in preliminary form so that I could add embedded notes, because it is easier to see the changes when they are pointed out where they occur. Changing the draft to an introducible form can be done very quickly.

In this version, I added proposed s. 767.511 (1j) (b) 5. ✓ to ensure that judges know they may continue to use any DCF rules that do not conflict with the new statutory provisions. Since statutes take precedence over rules and preempt any rules that are in conflict, is not necessary to provide that any existing rules that conflict with the new provisions are invalid. However, I am concerned that, unless you actually specify which rules may be considered, it is possible that judges will not know which ones are actually in conflict or not. Certainly judges will differ in their opinions and the rules will be used inconsistently across the state. ✓

I have provided a nonstatutory provision to address the issue relating to the clerks of court providing inaccurate documents until new documents may be prepared. As you can see, the language is extremely cumbersome and the procedure would be extremely cumbersome in practice. Clerks of court would have to keep track of to whom they have provided the old document in order to send them the new document. It may be preferable just to delay for two months the effective date of the provisions under which clerks are required to provide the documents (ss. 767.215 (1) (b) and (2m) (a) 2., 767.80 (7), and 767.813 (6)) and not worry about the inaccuracy of the documents that they provide before new ones are available.

In case you did not notice previously, please note that in the last version of this draft I removed the proposed provision about not basing child support on any amount of annual income over \$150,000 to avoid problems with federal law.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3501/P3dn
PJK:sac&med:jm

February 6, 2012

I have added an analysis; however, I have kept the draft in preliminary form so that I could add embedded notes, because it is easier to see the changes when they are pointed out where they occur. Changing the draft to an introducible form can be done very quickly.

In this version, I added proposed s. 767.511 (1j) (b) 5. to ensure that judges know they may continue to use any DCF rules that do not conflict with the new statutory provisions. Since statutes take precedence over rules and preempt any rules that are in conflict, it is not necessary to provide that any existing rules that conflict with the new provisions are invalid. However, I am concerned that, unless you actually specify which rules may be considered, it is possible that judges will not know which ones are actually in conflict or not. Certainly judges will differ in their opinions and the rules will be used inconsistently across the state.

I have provided a nonstatutory provision to address the issue relating to the clerks of court providing inaccurate documents until new documents may be prepared. As you can see, the language is extremely cumbersome and the procedure would be extremely cumbersome in practice. Clerks of court would have to keep track of to whom they have provided the old document in order to send them the new document. It may be preferable just to delay for two months the effective date of the provisions under which clerks are required to provide the documents (ss. 767.215 (1) (b) and (2m) (a) 2., 767.80 (7), and 767.813 (6)) and not worry about the inaccuracy of the documents that they provide before new ones are available.

In case you did not notice previously, please note that in the last version of this draft I removed the proposed provision about not basing child support on any amount of annual income over \$150,000 to avoid problems with federal law.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Kundert, Stephanie
Sent: Thursday, February 16, 2012 12:59 PM
To: Kahler, Pam
Subject: LRB 3501

Attachments: 11-3501P1.pdf

Good Afternoon Pam,

Thank you very much again for taking the time to attend the meeting yesterday on this child support legislation. Per our discussion, I've attached the P1 version of the bill that includes language in Section 10 (page 4) pertaining to the \$150,000 net income cap that Rep. Kleefisch would like included in the P3 draft, please (I believe that is the draft that we are up to now).

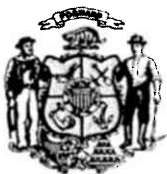
If you have any questions or concerns, please do not hesitate to contact me. Thanks so much!

Stephanie



11-3501P1.pdf (47
KB)

Stephanie L. Kundert
Office of Representative Joel Kleefisch
Member, Joint Committee on Finance
38th Assembly District
321 East, State Capitol
Madison, WI 53708
608.266.8552
stephanie.kundert@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3501/12

PJK:sac&med:jm

rm is new

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-17
SOON (by 22nd)

54

regenerate ↓

1 **AN ACT to renumber and amend** 767.511 (1j) and 767.511 (2); **to amend**
2 767.215 (1) (b), 767.215 (2m) (a) 2., 767.225 (1n) (b) 1., 767.511 (1) (a), 767.511
3 (1j) (title), 767.511 (1m) (intro.), 767.511 (1n), 767.511 (2) (title), 767.55 (2) (c),
4 767.553 (1) (a), 767.553 (1) (b), 767.59 (1f) (b) 4., 767.59 (2) (a), 767.80 (7),
5 767.813 (6) and 767.85 (2); and **to create** 767.511 (1j) (a), 767.511 (1j) (b) 1.,
6 767.511 (1j) (b) 2., 767.511 (1j) (b) 3., 767.511 (1j) (b) 4., 767.511 (1j) (c), 767.511
7 (2) (b) and 767.59 (1f) (b) 5. of the statutes; **relating to:** calculating child
8 support and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, in divorces, paternity actions, and other actions affecting the family in which there are minor children the court is required to order either or both parents to pay an amount that is reasonable or necessary to fulfill a duty to support a child. The court must generally determine child support payments by using the percentage standard set out in the Wisconsin Administrative Code (code) and established by the Department of Children and Families (DCF). The percentage standard is a percentage of the child support payer's monthly income available for support. The percentage that the child support payer must pay varies with the number of children to be supported. Under the percentage standard, a payer must

pay 17 percent of his or her monthly income available for support for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, and 34 percent for five or more children. Generally, the parent who has physical placement with a child for less time is ordered to pay child support to the other parent on the basis of the percentage standard.

In addition to the percentage standard, the code provides special methods that the court may, but is not required to, use for calculating child support in special situations: serial-family parents; shared-placement payers; split-placement payers; low-income payers; and high-income payers. A serial-family parent is a parent who is already obligated to pay child support and who is later ordered to pay support for another child, from a later marriage or a paternity adjudication, for example. The amount of support that the person must pay under the later order may be calculated by first reducing the payer's monthly income available for support by the amount under the first child support order and then applying the percentage standard to that reduced income amount.

Shared-placement parents are parents who both have physical placement with a child for at least 25 percent of the time or 92 days a year and who are both ordered by the court to assume the child's basic support costs in proportion to the time that the parent has placement of the child. For shared-placement parents, child support may be determined by multiplying each parent's income by the percentage standard, multiplying each of those resulting amounts by 150 percent, and then multiplying the resulting amount determined for each parent by the other parent's proportion of physical placement. The parent with the higher resulting amount pays to the other parent the difference between the amounts or the amount that would be determined by applying the percentage standard to his or her income, whichever is lower.

Split-placement parents are parents who have two or more children and each has placement with at least one but not all of the children. Under the code, child support may be determined by multiplying each parent's income by the pro rata percentage standard that applies for the number of children placed with the other parent. (For example, if there are two children and each parent has physical placement with one child, the pro rata percentage standard is 12.5 percent, or one-half of the 25 percent that applies for two children under the percentage standard.) The parent who would be required to pay the higher amount pays the difference to the other parent.

For low-income payers and high-income payers, the court may determine child support by using a schedule of percentages that are different from the percentages in the percentage standard. Currently, a low-income payer is one with annual income available for support of \$16,200 or less. This amount, which is 150 percent of poverty, is adjusted based on federal poverty guidelines. The schedule of percentages is reduced for each income level in gradients of \$25 per monthly income amount. Currently, the percentages, depending on income level, range from 11.11 percent to 17 percent for one child and from 22.22 percent to 34 percent for five or more children. For high-income payers, child support may be determined by multiplying annual income available for support that is less than \$84,000 by the usual percentages of the percentage standard, income between \$84,000 and

\$150,000 by a different schedule of percentages that are about 80 percent of the usual percentages, and income above \$150,000 by another schedule of percentages that are about 60 percent of the usual percentages. For example, for a payer with annual income available for support above \$150,000, child support for one child may be determined by multiplying the payer's monthly income under \$7,000 by 17 percent, multiplying the additional monthly income between \$7,000 and \$12,500 by 14 percent, multiplying the additional monthly income over \$12,500 by 10 percent, and adding together the amounts obtained.

The code provides that the court must determine a parent's monthly income that is available for child support by dividing by 12 the sum of the parent's gross annual income, or gross annual income modified for business expenses, the parent's annual imputed income based on earning capacity, and the parent's annual income imputed from assets. Under the code, the court may impute income to a payer if the court determines that the payer's income is less than his or her earning capacity or if the payer has unproductive assets or has diverted income into assets to avoid paying child support. For imputing income based on earning capacity, the court assesses the parent's education, training, previous work experience and income level, and the availability of work in or near the parent's community. Income imputation for unproductive assets involves multiplying the net value of the parent's assets by the current six-month treasury bill rate or another reasonable rate.

Under the statutes, a court is authorized, upon a party's request, to modify the amount of child support that would be ordered by using the percentage standard if the court finds that use of the percentage standard is unfair to the child or either of the parties. In making this finding, the court must consider a number of factors, such as the earning capacity of each parent, the desirability that the custodian remain in the home as a full-time parent, and extraordinary travel expenses incurred in exercising physical placement rights.

This bill sets out a child support percentage standard in the statutes for actions affecting the family and specifies how a court must determine child support, including for revisions of existing child support orders. Under the bill, the court must determine the support obligation of each parent who has physical placement with a child for less than 75 percent of the time and order one or both parents to pay an amount for the support of the child. To calculate a parent's child support obligation, the parent's net monthly income, which is the parent's gross monthly income, determined in the manner provided in the code, less federal and state income tax required by law to be withheld or to be paid by a self-employed individual, is multiplied by a specified percentage. If a parent's net monthly income is \$7,000 or less (which equals \$84,000 or less of net annual income), his or her total net monthly income is multiplied by the same percentages as the percentage standard under the code: 17 percent for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, and 34 percent for more than four children. However, if a parent's net monthly income exceeds \$7,000, his or her total net monthly income is multiplied by 14 percent for one child, 20 percent for two children, 23 percent for three children, 25 percent for four children, and 27 percent for more than four children.

X

except that the court may not calculate a parent's child support obligation on any of the parent's net income that exceeds \$150,000 per year annually adjusted in accordance with the consumer price index.

Under current law, in addition to ordering child support for a child, the court is required to assign responsibility for payment of the child's health care expenses and may require a parent to initiate or continue health insurance coverage for the child. Under the bill, after determining a parent's monthly child support obligation, the court must deduct from that amount any amount the parent currently pays, or is ordered to pay, for the child's health care coverage, health care expenses not covered by insurance, and child care expenses. Then, if both parents have physical placement with a child for more than 25 percent of the time, each parent's child support obligation, thus determined, is multiplied by the percentage of time that the other parent has physical placement with the child to determine each parent's comparative child support obligation. Whichever parent has the larger comparative child support obligation pays the difference between the two to the other parent as child support.

Under the bill, a court is still authorized, upon a party's request, to modify the amount of child support that would be ordered by using the new percentage standard if the court finds that its use is unfair to the child or either of the parties after considering the factors under current law. The bill adds, as another factor for the court to consider, the amount of income actually available to a parent for the payment of child support. The bill directs DCF to promulgate rules on how to compute the amount of income actually available to a parent, and provides that, if a parent is self-employed, there is a rebuttable presumption that a cash flow statement from a certified public accountant on behalf of the parent establishes the parent's income that is actually available for support.

Current law provides that the court may require a portion of the amount that either party must pay in child support to be set aside in a separate fund or trust for the support, education, and welfare of the child. The bill does not change the ability of the court to set funds aside for the child. The bill adds, however, that if the court determines that the amount of child support calculated in the new manner exceeds the amount reasonably necessary to support the child's current needs, the court must order the excess to be deposited in an account that requires the signatures of both parents for withdrawal, to be used for any extraordinary needs of the child. When the child support obligation ends, any funds remaining must be used for postsecondary education expenses of the child. Any funds remaining after ten years after the child support obligation ends must be returned to the parent or parents in proportion to their comparative child support obligations or distributed in another manner specified by the court.

Under current law, the court may revise the amount of child support under an existing order only if the court finds that there has been a substantial change in circumstances. The bill provides that the creation of the new percentage standard in the statutes and the other new requirements related to determining child support constitute a substantial change in circumstances on which a revision may be based. The bill also provides that any agreement related to child support that was entered into before the effective date of the bill that has not yet been approved by a court is void unless the parties reaffirm the agreement in writing or in open court on or after the effective date of the bill. Finally, the bill provides that the court may determine

a parent's child support obligation in conformity with any provisions of the code that are not in conflict with the new percentage standard or other new requirements in the statutes.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

×

1 **SECTION 1.** 767.215 (1) (b) of the statutes is amended to read:

2 767.215 (1) (b) The clerk of court shall provide without charge, to each person
3 filing a petition requesting child support, a document setting forth the percentage
4 standard established by the department under s. 49.22 (9) 767.511 (1j) (b) and listing
5 the factors that a court may consider under s. 767.511 (1m).

6 **SECTION 2.** 767.215 (2m) (a) 2. of the statutes is amended to read:

7 767.215 (2m) (a) 2. Shall be accompanied by a document, provided without
8 charge by the clerk of court, setting forth the percentage standard established by the
9 department under s. 49.22 (9) 767.511 (1j) (b) and listing the factors that a court may
10 consider under s. 767.511 (1m).

11 **SECTION 3.** 767.225 (1n) (b) 1. of the statutes is amended to read:

12 767.225 (1n) (b) 1. If the court makes a temporary child support order that
13 deviates from the amount of support that would be required by using the percentage
14 standard established by the department under s. 49.22 (9) 767.511 (1j) (b), the court
15 shall comply with the requirements of s. 767.511 (1n).

16 **SECTION 4.** 767.511 (1) (a) of the statutes is amended to read:

17 767.511 (1) (a) Order Determine the support obligation of each parent who has
18 physical placement with his or her child for less than 75 percent of the time and order
19 either or both parents to pay an amount reasonable or necessary to fulfill a duty to

Insert 5-15

1 support ~~a~~ the child. The support amount must be expressed as a fixed sum unless
2 the parties have stipulated to expressing the amount as a percentage of the payer's
3 income and the requirements under s. 767.34 (2) (am) 1. to 3. are satisfied.

****NOTE: See how I have modified the wording of this provision. I think that the
new wording is more accurate, since both parents will really not be paying each other
child support in most cases.

4 **SECTION 5.** 767.511 (1j) (title) of the statutes is amended to read:

5 767.511 (1j) (title) ~~PERCENTAGE CALCULATION; PERCENTAGE~~ STANDARD GENERALLY
6 REQUIRED.

7 **SECTION 6.** 767.511 (1j) of the statutes is renumbered 767.511 (1j) (b) (intro.)
8 and amended to read:

9 767.511 (1j) (b) (intro.) Except as provided in sub. (1m), the court shall
10 determine the child support payments by using the percentage standard established
11 by the department under s. 49.22 (9). obligation of a parent in the following manner:

****NOTE: I have modified this provision, since the court will determine the support
obligation even of a parent who is not actually ordered to pay support to the other parent.
Okay?

12 **SECTION 7.** 767.511 (1j) (a) of the statutes is created to read:

13 767.511 (1j) (a) In this subsection:

14 1. "Gross income" has the meaning given in s. DCF 150.02 (13) (a), Wis. Adm.
15 Code.

16 2. "Net income" means gross income less federal and state income tax required
17 by law to be withheld or to be paid by a self-employed individual.

****NOTE: I added "income" before "tax." Okay?

18 **SECTION 8.** 767.511 (1j) (b) 1. of the statutes is created to read:

19 767.511 (1j) (b) 1. Subject to subd. 3., if the parent's total monthly net income
20 is \$7,000 or less, his or her monthly child support obligation equals the amount that
21 is the following percentage of his or her total monthly net income:

- 1 a. For one child, 17 percent.
- 2 b. For 2 children, 25 percent.
- 3 c. For 3 children, 29 percent.
- 4 d. For 4 children, 31 percent.
- 5 e. For more than 4 children, 34 percent.

subds. 2m. and

6 **SECTION 9.** 767.511 (1j) (b) 2.^x of the statutes is created to read:

7 767.511 (1j) (b) 2. Subject to subd. 3., if the parent's total monthly net income
8 exceeds \$7,000, his or her monthly child support obligation equals the amount that
9 is the following percentage of his or her total monthly net income:

- 10 a. For one child, 14 percent.
- 11 b. For 2 children, 20 percent.
- 12 c. For 3 children, 23 percent.
- 13 d. For 4 children, 25 percent.
- 14 e. For more than 4 children, 27 percent.

15 **SECTION 10.** 767.511 (1j) (b) 3.^x of the statutes is created to read:

16 767.511 (1j) (b) 3. When the court calculates a parent's child support obligation,
17 unless the parties agree otherwise in writing or orally in open court, the court shall
18 reduce the amount determined under subd. 1. or 2. for the parent by the amount per
19 month that the parent currently pays or is ordered to pay for any of the following
20 costs:

- 21 a. Health care coverage for the child.
- 22 b. The child's health care expenses that are not covered by insurance.
- 23 c. Child care expenses.

24 **SECTION 11.** 767.511 (1j) (b) 4.^x of the statutes is created to read:

Insert 7-14

1 767.511 (1j) (b) 4. If each parent has physical placement with a child for more
2 than 25 percent of the time, the child support obligation of each parent shall be
3 calculated as provided in subds. 1. to 3. and multiplied by the percentage of time that
4 the other parent has physical placement with the child. The product of a parent's
5 child support obligation multiplied by the percentage of time that the other parent
6 has physical placement with the child is that parent's comparative child support
7 obligation amount. Subject to sub. (2) (b), the parent with the larger comparative
8 child support obligation amount shall pay to the other parent that amount reduced
9 by the payee parent's comparative child support obligation amount.

****NOTE: I added "Subject to sub. (2) (b)," to the last sentence above, since the court
may require some or all of the difference to be deposited in an account. Okay?

10 **SECTION 12.** 767.511 (1j) (b) 5. of the statutes is created to read:

11 767.511 (1j) (b) 5. In addition to the calculations under subds. 1. to 4., the court
12 may determine a parent's child support obligation under this section in conformity
13 with any provisions of ch. DCF 150, Wis. Adm. Code, that are not in conflict with
14 subds. 1. to 4.

15 **SECTION 13.** 767.511 (1m) (intro.) of the statutes is amended to read:

16 767.511 (1m) DEVIATION FROM STANDARD; FACTORS. (intro.) Upon request by a
17 party, the court may modify the amount of child support payments determined under
18 sub. (1j) if, after considering the following factors, the court finds by the greater
19 weight of the credible evidence that use of the that percentage standard is unfair to
20 the child or to any of the parties:

21 **SECTION 14.** 767.511 (1m) (bc) of the statutes is created to read:

22 767.511 (1m) (bc) The amount of income actually available to a parent for the
23 payment of child support.

1 SECTION 15. 767.511 (1n) of the statutes is amended to read:

2 767.511 (1n) DEVIATION FROM STANDARD; RECORD. If the court finds under sub.
3 (1m) that use of the percentage standard under sub. (1j) (b) is unfair to the child or
4 the requesting party, the court shall state in writing or on the record the amount of
5 support that would be required by using the percentage standard, the amount by
6 which the court's order deviates from that amount, its reasons for finding that use
7 of the percentage standard is unfair to the child or the party, its reasons for the
8 amount of the modification, and the basis for the modification.

9 SECTION 16. 767.511 (1p) of the statutes is created to read:

10 767.511 (1p) RULES FOR INCOME AVAILABLE FOR SUPPORT. The department shall
11 promulgate rules related to how the amount of income actually available to a parent
12 for the payment of child support shall be computed for purposes of sub. (1m) (bc). If
13 a parent is self-employed, there shall be a rebuttable presumption that a cash flow
14 statement provided by a certified public accountant on behalf of the parent
15 establishes the parent's income actually available for the payment of child support
16 for purposes of sub. (1m) (bc).

.....NOTE: I added "public" between "certified" and "accountant." Okay?

17 SECTION 17. 767.511 (2) (title) of the statutes is amended to read:

18 767.511 (2) (title) SEPARATE ACCOUNT, FUND, OR TRUST.

19 SECTION 18. 767.511 (2) of the statutes is renumbered 767.511 (2) (a) and
20 amended to read:

21 767.511 (2) (a) The Except as provided in par. (b), the court may protect and
22 promote the best interests of the minor children by setting aside a portion of the child
23 support which that either party is ordered to pay in a separate fund or trust for the
24 support, education, and welfare of such children.

x

1 **SECTION 19.** 767.511 (2) (b) of the statutes is created to read:

2 767.511 (2) (b) If the court determines that the amount of child support
3 calculated in the manner provided in this section exceeds the amount reasonably
4 necessary to support the child's current needs, the court shall order that the excess
5 amount be deposited in an account requiring the signatures of both parents for
6 withdrawal, to be used for any extraordinary needs of the child on which the parents
7 agree. Any funds remaining in the account when the child support obligation ends
8 shall be used for postsecondary education expenses for the child. Any funds
9 remaining in the account after 10 years from the date on which the child support
10 obligation ends shall be returned to the parents in proportion to the comparative
11 child support obligation of each under sub. (1j) (b) 4. or, if only one parent had a child
12 support obligation, to that parent, or shall be distributed in another manner
13 specified by the court.

x

14 **SECTION 20.** 767.513 (2) of the statutes is amended to read:

15 767.513 (2) RESPONSIBILITY AND PAYMENT. In addition to ordering child support
16 for a child under s. 767.511 (1), and subject to s. 767.511 (1j) (b) 3., the court shall
17 specifically assign responsibility for and direct the manner of payment of the child's
18 health care expenses. In assigning responsibility for a child's health care expenses,
19 the court shall consider whether a child is covered under a parent's health insurance
20 policy or plan at the time the court approves a stipulation for child support under s.
21 767.34, enters a judgment of annulment, divorce, or legal separation, or enters an
22 order or a judgment in a paternity action or in an action under s. 767.001 (1) (f) or
23 (j), 767.501, or 767.805 (3), the availability of health insurance to each parent
24 through an employer or other organization, the extent of coverage available to a
25 child, and the costs to the parent for the coverage of the child. A parent may be

1 required to initiate or continue health care insurance coverage for a child under this
2 section. If a parent is required to do so, he or she shall provide copies of necessary
3 program or policy identification to the custodial parent and is liable for any health
4 care costs for which he or she receives direct payment from an insurer. This section
5 shall not be construed to limit the authority of the court to enter or modify support
6 orders containing provisions for payment of medical expenses, medical costs, or
7 insurance premiums that are in addition to and not inconsistent with this section.

8 **SECTION 21.** 767.55 (2) (c) of the statutes is amended to read:

9 767.55 (2) (c) If the court enters an order under par. (am), it shall order the
10 parent to pay child support equal to the amount determined by applying the
11 percentage standard established under s. ~~49.22 (9)~~ 767.511 (1j) (b) or equal to the
12 amount of child support that the parent was ordered to pay in the most recent
13 determination of support under this chapter. The child support obligation ordered
14 under this paragraph continues until the parent makes timely payment in full for
15 3 consecutive months or until the person participates in the program under s. 49.36
16 for 16 weeks, whichever occurs first. The court shall provide in its order that the
17 parent shall make child support payments calculated under s. 767.511 (1j) or (1m)
18 after the obligation to make payments ordered under this paragraph ceases.

19 **SECTION 22.** 767.553 (1) (a) of the statutes is amended to read:

20 767.553 (1) (a) An order for child or family support under this chapter may
21 provide for an annual adjustment in the amount to be paid based on a change in the
22 payer's income if the amount of child or family support is expressed in the order as
23 a fixed sum and based on the percentage standard ~~established by the department~~
24 under s. ~~49.22 (9)~~ 767.511 (1j) (b). No adjustment may be made under this section
25 unless the order provides for the adjustment.

1 [✓]
SECTION 23. 767.553 (1) (b) of the statutes is amended to read:

2 767.553 (1) (b) An adjustment under this section may not be made more than
3 once in a year and shall be determined on the basis of the percentage standard
4 established by the department under s. 49.22 (9) 767.511 (1j) (b).

5 ^x
SECTION 24. 767.59 (1f) (b) 4. of the statutes is amended to read:

6 767.59 (1f) (b) 4. ~~A~~ If the action is one to revise a judgment or order with respect
7 to child support ordered under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183
8 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2), a difference between the
9 amount of child support ordered by the court to be paid by the payer and the amount
10 that the payer would have been required to pay based on the percentage standard
11 established by the department under s. 49.22 (9) if the court did not use ~~the~~ that
12 percentage standard in determining the child support payments and did not provide
13 the information required under s. 46.10 (14) (d), 49.345 (14) (d), 301.12 (14) (d), or
14 767.511 (1n), whichever is appropriate.

15 ^x
SECTION 25. 767.59 (1f) (b) 5. of the statutes is created to read:

16 767.59 (1f) (b) 5. If the action is one to revise a judgment or order with respect
17 to child support or family support ordered under this chapter or s. 948.22 (7), a
18 difference between the amount of child support ordered by the court to be paid by the
19 payer and the amount that the payer would have been required to pay based on the
20 percentage standard under s. 767.511 (1j) (b) if the court did not use that percentage
21 standard in determining the child support payments and did not provide the
22 information required under s. 767.511 (1n).

23 ^x
SECTION 26. 767.59 (2) (a) of the statutes is amended to read:

1 767.59 (2) (a) Except as provided in par. (b) or (c), if the court revises a judgment
2 or order with respect to child support payments, it shall do so by using the percentage
3 standard ~~established by the department~~ under s. ~~49.22 (9)~~ 767.511 (1j) (b).

4 ^x
SECTION 27. 767.80 (7) of the statutes is amended to read:

5 767.80 (7) CLERK TO PROVIDE DOCUMENT. The clerk of court shall provide without
6 charge to each person bringing an action under this section, except to the state under
7 sub. (1) (g) or (6m), a document setting forth the percentage standard ~~established by~~
8 ~~the department~~ under s. ~~49.22 (9)~~ 767.511 (1j) (b) and listing the factors that a court
9 may consider under s. 767.511 (1m).

10 [✓]
SECTION 28. 767.813 (6) of the statutes is amended to read:

11 767.813 (6) DOCUMENT. The summons served on the respondent shall be
12 accompanied by a document, provided without charge by the clerk of court, setting
13 forth the percentage standard ~~established by the department~~ under s. ~~49.22 (9)~~
14 767.511 (1j) (b) and listing the factors that a court may consider under s. 767.511
15 (1m).

16 [✓]
SECTION 29. 767.85 (2) of the statutes is amended to read:

17 767.85 (2) CONSIDERATIONS. Before making any temporary order under sub. (1),
18 the court shall consider those factors that the court is required to consider when
19 granting a final judgment on the same subject matter. If the court makes a
20 temporary child support order that deviates from the amount of support that would
21 be required by using the percentage standard ~~established by the department~~ under
22 s. ~~49.22 (9)~~ 767.511 (1j) (b), the court shall comply with the requirements of s. 767.511
23 (1n).

24 SECTION 30. Nonstatutory provisions.

1 (1) SUBSTANTIAL CHANGE IN CIRCUMSTANCES. Notwithstanding section 767.59 (1f)
2 (b) 5. of the statutes, as created by this act, the renumbering and amendment of
3 section 767.511 (1j) of the statutes by this act and the creation of section 767.511 (1j)
4 (b) 1. to 4. and (1m) (bc) of the statutes by this act constitute a substantial change
5 in circumstances on which may be based a revision under section 767.59 of the
6 statutes of a judgment or order with respect to child or family support.

7 (2) AGREEMENTS VOID. Any agreement entered into before the effective date of
8 this subsection by parties to an action affecting the family, as defined in section
9 767.001 (1) of the statutes, that relates to child support and that has not been
10 approved by a court before the effective date of this subsection is void unless the
11 parties reaffirm the agreement in writing or in open court on or after the effective
12 date of this subsection.

13 (3) DOCUMENT PROVIDED BY CLERK SETTING FORTH PERCENTAGE STANDARD.

14 (a) Notwithstanding sections 767.215 (1) (b) and (2m) (a) 2., 767.511 (1m) (bc),
15 767.80 (7), and 767.813 (6) of the statutes, as affected by this act, and SECTION 31 (2)
16 (a) of this act, a clerk of court is not required to provide a document under section
17 767.215 (1) (b) or (2m) (a) 2., 767.80 (7), or 767.813 (6) of the statutes, as affected by
18 this act, that sets forth the percentage standard under section 767.511 (1j) (b) of the
19 statutes, as affected by this act, and lists the factors that a court may consider under
20 section 767.511 (1m) of the statutes, including section 767.511 (1m) (bc) of the
21 statutes, as created by this act, before the first day of the 3rd month beginning after
22 the effective date of this paragraph.

23 (b) Before the date specified in paragraph (a), a clerk of court shall continue to
24 provide a document under section 767.215 (1) (b) or (2m) (a) 2., 767.80 (7), or 767.813
25 (6) of the statutes, as affected by this act, that sets forth the percentage standard

may in all actions
affecting the family

1 established by the department of children and families under section 49.22 (9) of the
2 statutes and lists the factors that a court may consider under section 767.511 (1m)
3 (a), (b), and (bj) to (i) of the statutes.

4 (c) As soon as practicable after the date specified in paragraph (a), a clerk of
5 court shall provide a document that sets forth the percentage standard under section
6 767.511 (1j) (b) of the statutes, as affected by this act, and lists the factors that a court
7 may consider under section 767.511 (1m) of the statutes, including section 767.511
8 (1m) (bc) of the statutes, as created by this act, to each person to whom the clerk
9 provided, after the effective date of this paragraph, a document described in
10 paragraph (b) *except for a person who is a party in an action*
affecting the family as defined in

11 (d) Each person who receives a document under paragraph (c) from a clerk of
12 court and who served a summons under section 767.215 (2m) of the statutes, as
13 affected by this act, or under section 767.813 (6) of the statutes, as affected by this
14 act, after the effective date of this paragraph accompanied by a document described
15 in paragraph (b) shall provide the document received from the clerk under paragraph
16 (c) to the party on whom the summons accompanied by the document described in
17 paragraph (b) was served.

18 SECTION 31. Initial applicability.

19 (1) GENERAL. Except as provided in subsection (2), this act first applies to child
20 or family support orders, including temporary orders and orders revising judgments
21 or orders previously granted, that are granted on the effective date of this subsection.

22 (2) DOCUMENTS PROVIDED BY CLERK.

23 (a) The treatment of sections 767.215 (1) (b) and (2m) (a) 2., 767.80 (7), and
24 767.813 (6) of the statutes first applies to actions or proceedings, including actions

Section 767.001 (1) (m) of the statutes

1 or proceedings to modify a judgment or order previously granted, that are
2 commenced on the effective date of this paragraph.

3 (b) SECTION 30 (3) of this act first applies to actions or proceedings, including
4 actions or proceedings to modify a judgment or order previously granted, that are
5 commenced on the effective date of this paragraph.

6 (END)

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3501/lins
PJK:.....

INSERT 5-15

1 **SECTION 1.** 767.215 (2m) (a) 2. of the statutes is amended to read:

2 767.215 (2m) (a) 2. Shall be accompanied by a document, provided without
3 charge by the clerk of court, setting forth the percentage standard under s. 767.511
4 (1j) (b) or, if the action affecting the family is one under s. 767.001 (1) (m), the
5 percentage standard established by the department under s. 49.22 (9) and listing the
6 factors that a court may consider under s. 767.511 (1m).

History: 1971 c. 220; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.085; 1985 a. 29; 1987 a. 332 s. 64; 1987 a. 355, 403; 1989 a. 31, 56, 132; 1993 a. 78, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 404; 1997 a. 191; 2001 a. 61; 2005 a. 443 ss. 31, 46 to 49, 71, 83, 84; Stats. 2005 s. 767.215; 2007 a. 187; 2011 a. 32.

7 **SECTION 2.** 767.225 (1n) (b) 1. of the statutes is amended to read:

8 767.225 (1n) (b) 1. If the court makes a temporary child support order that
9 deviates from the amount of support that would be required by using the percentage
10 standard under s. 767.511 (1j) (b) or, if the action affecting the family is one under
11 s. 767.001 (1) (m), the percentage standard established by the department under s.
12 49.22 (9), the court shall comply with the requirements of s. 767.511 (1n).

History: 1971 c. 149; 1971 c. 211 s. 126; 1971 c. 220, 307; 1975 c. 283; Sup. Ct. Order, 73 Wis. 2d xxxi (1976); 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 111, 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.23; 1983 a. 27; 1983 a. 204 s. 22; 1983 a. 447; 1985 a. 29 s. 3202 (9); 1987 a. 355, 364, 413; 1989 a. 212; 1991 a. 39; 1993 a. 78, 481, 490; 1995 a. 27 ss. 7100h, 9126 (19); 1995 a. 70, 404; 1999 a. 9; 2001 a. 16, 61; 2003 a. 130, 326; 2005 a. 174, 342; 2005 a. 443 ss. 86 to 91; Stats. 2005 s. 767.225; 2007 a. 96.

(END OF INSERT 5-15)

Amend 7-14

- 1 a. For one child, 14 percent.
 - 2 b. For 2 children, 20 percent.
 - 3 c. For 3 children, 23 percent.
 - 4 d. For 4 children, 25 percent.
 - 5 e. For more than 4 children, 27 percent.
- SECTION 10. 767.511 (1j) (b) ^{2m} of the statutes is created to read:
- 767.511 (1j) (b) ^{2m} The court may not calculate the amount of child support that a parent is obligated to pay on any of the parent's net income that exceeds \$150,000 per year, adjusted annually beginning in 2013, to reflect changes in the consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor.

....NOTE: Should this be expressed as a monthly amount instead since the support obligation is determined on monthly income?

....NOTE: I am advised by DCF that this particular provision may present a problem under federal law, in which case the state could stand to lose federal funding for child support enforcement activities.

SECTION 11. 767.511 (1j) (b) 4. of the statutes is created to read:

767.511 (1j) (b) 4. If each parent has physical placement with a child for more than 25 percent of the time, the child support obligation of each parent shall be calculated as provided in subs. 1. to 3. and multiplied by the percentage of time that the other parent has physical placement with the child. The product of a parent's child support obligation multiplied by the percentage of time that the other parent has physical placement with the child is that parent's comparative child support obligation amount. The parent with the larger comparative child support obligation amount shall pay to the other parent that amount reduced by the payee parent's comparative child support obligation amount.

SECTION 12. 767.511 (1j) (c) of the statutes is created to read:

(and amend 7-14)

Kahler, Pam

From: Childs, Nicole
Sent: Thursday, February 23, 2012 3:47 PM
To: Kahler, Pam
Subject: FW: New Draft
 Good Afternoon Pam,

I am forwarding an email that our office received from Michael Eisenga regarding some possible language changes.

Please let me know what you think of these. I hope that you have a great afternoon!

Niccole

Niccole Childs
 Office of Joel Kleefisch
 State Representative
 38th Assembly District
 Phone: (608) 266-8551
 Email: Niccole.Childs@legis.wi.gov

From: Michael Eisenga [mailto:MEisenga@FirstAmericanFun.com]
Sent: Wednesday, February 22, 2012 4:32 PM
To: Kundert, Stephanie; S FOTI; Rep.Kleefisch
Cc: Childs, Niccole
Subject: RE: New Draft

Hi everyone,

A couple concerns I have:

- 1) sect 10 line 18; It shows the beginning date for the income cap to be 2013. We want it to say 2011. so it is possible to go in for a change immediately based on last years income.
- 2) Sect 15 & 16; This section references the court having the ability to deviate form the standards if the court deems the standards "unfair" to the children or either party. I am ok with this so long as the court is not able to award child support above what the \$150,000.00 of income. In other words I don't want the court to be able to say gee Mike makes \$2,000,000.00 per year so this is not "fair so we will award child support based upon income over \$150,000.00 The \$150,000.00 must be the ceiling for any child support awards.
- 3) sect 17 The language "there shall be a rebuttable presumption that a cash flow statement provided by a certified public accountant" shall read "It shall be acceptable that a cash flow statement provided by a certified public accountant"

Please provide anything else you notice, or any other feedback.

Michael S. Eisenga
 President

First American Funding Company, LLC
 N4365 State Hwy 73

2/23/2012

Columbus, WI 53925
USA

(920)623-5621 phone
(920)623-5543 fax

CONFIDENTIALITY NOTICE: Unless otherwise indicated or obvious from the nature of this electronic transmission, the information contained in this electronic transmission is privileged and confidential intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or are not certain whether it is privileged, please immediately return this message to the sender, and delete this message from your email records.

From: Kundert, Stephanie [mailto:stephanie.kundert@legis.wisconsin.gov]
Sent: Wednesday, February 22, 2012 12:33 PM
To: Michael Eisenga; S FOTI; Rep.Kleefisch
Cc: Childs, Niccole
Subject: RE: New Draft

Hi Michael,

Please find attached the updated draft of the legislation since the meeting last week. If any further changes need to be made after tomorrow, please contact Niccole with the requested edits and she'll forward them onto Pam.
Thank you!

Stephanie

Stephanie L. Kundert
Office of Representative Joel Kleefisch
Member, Joint Committee on Finance
38th Assembly District
321 East, State Capitol
Madison, WI 53708
608.266.8552
stephanie.kundert@legis.wisconsin.gov

From: Michael Eisenga [mailto:MEisenga@FirstAmericanFun.com]
Sent: Tuesday, February 21, 2012 1:35 PM
To: Kundert, Stephanie; S FOTI; Rep.Kleefisch
Cc: Childs, Niccole
Subject: RE: New Draft

Hi Stephanie,

It will be a loss to Joel to see you go. Good luck though! Please stay on top of Pam, as I think she may have her own agenda in this (dragging her feet).

Michael S. Eisenga
President

2/23/2012

First American Funding Company, LLC
N4365 State Hwy 73
Columbus, WI 53925
USA

(920)623-5621 phone
(920)623-5543 fax

CONFIDENTIALITY NOTICE: Unless otherwise indicated or obvious from the nature of this electronic transmission, the information contained in this electronic transmission is privileged and confidential intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or are not certain whether it is privileged, please immediately return this message to the sender, and delete this message from your email records.

From: Kundert, Stephanie [mailto:stephanie.kundert@legis.wisconsin.gov]
Sent: Tuesday, February 21, 2012 11:57 AM
To: Michael Eisenga; S FOTI; Rep.Kleefisch
Cc: Childs, Niccole
Subject: RE: New Draft

Hi Michael,

I have not received a new draft from Pam, but will call her today for an update. I had sent her the request right after our meeting on Thursday.

I should also inform you that I've accepted another position outside of the Capitol and my last day in Rep. Kleefisch's office will be this Thursday. I've kept my co-worker, Niccole, up-to-date on this legislation so she is aware of where things are at the moment with it. Hopefully, Pam will have the new draft today or tomorrow so that it can be formally introduced on Thursday before my departure.

Thank you again and I will follow-up once I've heard back from Pam.

Stephanie

Stephanie L. Kundert
Office of Representative Joel Kleefisch
Member, Joint Committee on Finance
38th Assembly District
321 East, State Capitol
Madison, WI 53708
608.266.8552
stephanie.kundert@legis.wisconsin.gov

From: Michael Eisenga [mailto:MEisenga@FirstAmericanFun.com]
Sent: Monday, February 20, 2012 4:54 PM
To: Kundert, Stephanie; S FOTI; Rep.Kleefisch
Subject: New Draft

Hi Stephanie,

Did you get the updated draft complete with income caps back from Pam Friday?

2/23/2012

Michael S. Eisenga
President

First American Funding Company, LLC
N4365 State Hwy 73
Columbus, WI 53925
USA

(920)623-5621 phone
(920)623-5543 fax

CONFIDENTIALITY NOTICE: Unless otherwise indicated or obvious from the nature of this electronic transmission, the information contained in this electronic transmission is privileged and confidential intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or are not certain whether it is privileged, please immediately return this message to the sender, and delete this message from your email records.

2/23/2012

Kahler, Pam

From: Childs, Niccole
Sent: Monday, February 27, 2012 8:53 AM
To: Kahler, Pam

Pam,

I heard back from Michael and he said to follow the information that is highlighted in red.

Regarding #1, it's not the cap but the annual adjustment based on the consumer price index that starts in 2013. I can change that provision to be two sentences so that it is not confusing. Two sentences sounds good.

Regarding #2, that can be drafted. Good, please draft so child support can only be awarded according to the applicable percentages in the statute, but under no circumstance can child support be awarded on any income above \$150,000.00 unless the parties agree in writing or in open court.

Regarding #3, I'm not sure what language change is wanted. Is it that the court shall accept a cash flow statement from a CPA as evidence establishing the parent's available income, or that a cash flow statement from a CPA shall establish a parent's available income, or something else? "A cash flow statement prepared by the self employed parent's CPA shall establish this parent's income for the purpose of paying child support."

ES ? (Also, he said that he thinks it is ok to add language to define net income as income after all taxes based upon ACTUAL dependents. This way someone can't claim 9 dependents when they only have 2 kids... They will pay on net income based on the actual dependents they have.

Again, let me know if you have any additional questions. Thanks!

Niccole

Niccole M. Childs
Legislative Assistant
Office of State Representative Joel Kleefisch
38th Assembly District
Post Office Box 8952
Madison, WI 53708-8952
Phone: 608-266-8551
Fax: 608-282-3638
Email: Niccole.Childs@legis.wi.gov
Website: <http://legis.wisconsin.gov>